

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 2, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 517

Introduced by Assembly Member Ma
(Coauthor: Senator Alquist)

February 24, 2009

An act to repeal and add Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code, relating to body art.

LEGISLATIVE COUNSEL'S DIGEST

AB 517, as amended, Ma. Safe Body Art Act.

Under existing law, every person engaged in the business of tattooing, body piercing, or permanent cosmetics is required to register with the county in which that business is conducted, obtain a copy of the county's sterilization, sanitation, and safety standards, as established by the California Conference of Local Health Officers and distributed by the State Department of Public Health, as specified, and pay a one-time registration fee of \$25. Existing law allows the county to charge an additional fee if necessary to cover the cost of registration and inspection and allows a county to adopt regulations that do not conflict with, or are more comprehensive than, standards adopted by the department.

Under existing law, a person who fails to register or who violates the sterilization, sanitation, and safety standards is liable for a civil penalty of up to \$500, to be collected in an action brought by the prosecuting attorney of the county or city and county in which the violation occurred.

This bill would repeal these provisions and, instead, enact the Safe Body Art Act. The act would prohibit a person from performing body art, as defined, after ~~June~~ January 1, 2010, without registering with the county local enforcement agency. The bill would require practitioners to comply with specified requirements, including, among other things, client information and questionnaires, vaccination, bloodborne pathogen training, and sanitation. The bill would also require the owner of a body art facility, as defined, to obtain a health permit from the county local enforcement agency, as specified, and to maintain the body art facility in a specified manner.

This bill would exempt from the definition of body art the piercing of an ear with a disposable, single-use, presterilized stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear but would impose specified regulations on that practice. *The bill would require facilities performing ear piercing to register with the local enforcement agency.*

The bill would allow the county to set the fee amount for registration at an amount sufficient to cover the actual costs of administering the program.

This bill would regulate the performance of body art in vehicles, temporary booths, and at body art events and would require a person sponsoring a body art event to obtain a permit and fulfill specified requirements.

The bill would allow inspection by an enforcement officer, and would provide for the suspension or revocation of a certificate of registration or a health permit in specified circumstances. The bill would make performing body art without being registered, operation of a body art facility without a health permit, or operation of a temporary body art event without a permit a misdemeanor and would allow the local enforcement agency to assess an administrative penalty, in an amount not less than \$25 and not more than \$1,000 for violating a provision of the chapter.

This bill would allow a city, county, or city and county to adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of the act as those provisions relate to body art. Because this bill would place the inspection and enforcement requirements on local governments and because it creates a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 119300) is added to Part 15 of Division 104 of the Health and Safety Code, to read:

CHAPTER 7. BODY ART

Article 1. General Provisions

119300. (a) This chapter shall be known, and may be cited, as the Safe Body Art Act.

(b) The purpose of this chapter is to provide minimum statewide standards for the regulation of persons engaged in the business of tattooing, body piercing, and the application of permanent cosmetics in California. These requirements are intended to protect both the practitioner and the client from transmission of infectious diseases through the application of proper body art procedures and the control of cross-contamination of instruments and supplies.

119301. For purposes of this chapter, the following definitions shall apply:

(a) "Antiseptic solution" means a liquid or semiliquid substance that is approved by the federal Food and Drug Administration to reduce the number of microorganisms present on the skin and on mucosal surfaces.

(b) "Bloodborne pathogen" means a disease-causing microorganism that, when present in the blood, can be transmitted to humans, including, but not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(c) “Body art” means body piercing, tattooing, *branding*, or application of permanent cosmetics.

(d) “Body art facility” means the specified building, section of a building, or vehicle in which a practitioner performs body art, including reception areas, the procedure area, and the cleaning and sterilization area. “Body art facility” does not include a facility that only pierces the ear with a disposable, single-use, presterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(e) “Body piercing” means the creation of an opening in ~~the body of a human being~~ *a human body* for the purpose of inserting jewelry or other decoration. “Body piercing” includes, but is not limited to, *the* piercing of an ear, *including the tragus*, lip, tongue, nose, or eyebrow. “Body piercing” does not include ~~piercing the~~ *piercing of* an ear, *except for the tragus*, with a disposable, single-use, presterilized stud *and clasp* or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(f) “*Branding*” means the process in which a mark or marks are burned into human skin tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.

~~(g)~~
(g) “Cleaning and sterilization area” means a room, or specific section of a room, that is set apart and used only to decontaminate and sterilize instruments.

~~(g)~~
(h) “Client” means any individual upon whom a practitioner performs body art.

~~(h)~~
(i) “Department” means the State Department of Public Health.

~~(i)~~
(j) “Decontamination” means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

~~(j)~~
(k) “Disinfectant” means a hospital tuberculocidal product or hospital product that is registered by the federal Environmental Protection Agency and labeled as effective against human

1 immunodeficiency virus (HIV) and hepatitis B virus (HBV) for
2 use in decontaminating work surfaces.

3 ~~(k)~~

4 (l) “Enforcement officer” means all local health officers,
5 directors of environmental health, and duly authorized
6 environmental health specialists and environmental health specialist
7 trainees.

8 ~~(l)~~

9 (m) “Hand hygiene” means either of the following:

10 (1) ~~Washing~~ *Thoroughly washing* all surfaces of the hands and
11 ~~fingers under the fingernails~~ with soap and warm water.

12 (2) In the absence of contamination with blood or other body
13 fluids, or obvious soiling, ~~rubbing~~ *applying an antiseptic solution*
14 *to all the surfaces of the hands and fingers with an antiseptic*
15 ~~solution underneath the fingernails.~~

16 ~~(m)~~

17 (n) “Instrument” means any nonmedical ~~tattooing, body piercing,~~
18 ~~or permanent cosmetics~~ *application device used in performing*
19 *body art*, including, but not limited to, needles, needle bars, needle
20 tubes, forceps, hemostats, tweezers, razors, or razor blades, ~~that~~
21 ~~is used to insert pigment into, or pierce the skin or mucosal surfaces~~
22 ~~of, the human body.~~

23 ~~(n)~~

24 (o) “Local enforcement agency” means the local health agency
25 of the county, city, or city and county. In jurisdictions where the
26 local health agency and the environmental health agency are
27 separate departments, the jurisdiction shall specify which entity
28 will be the local enforcement agency for purposes of this chapter.

29 ~~(o)~~

30 (p) “Mucosal surface” means the moisture-secreting membrane
31 lining of all body cavities or passages that communicates with the
32 exterior, including, but not limited to, the nose, mouth, vagina,
33 and urethra.

34 ~~(p)~~

35 (q) “Owner” means either of the following:

36 (1) The person or persons whose name or names ~~appears~~ *appear*
37 *on the health permit, business license, property deed, or rental*
38 *agreement of the body art facility.*

(2) A person, acting as a principal of a corporation or partnership, who employs practitioners to perform body art or any other activity regulated by this chapter.

~~(q)~~

(r) “Permanent cosmetics” means the application of pigments ~~in the skin of a human being~~ *human skin tissue* for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to, permanent eyeliner, eyebrow, or lip color.

~~(r)~~

(s) “Potable water” means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12).

~~(s)~~

(t) “Practitioner” means a person who performs body art on a client.

~~(t)~~

(u) “Procedure area” means a room, or designated portion of a room, that is set apart and only used to perform body art.

~~(u)~~

(v) “Procedure site” means the area or location on the human body selected for the placement of body art.

~~(v)~~

(w) “Sharps waste” means any object or device having acute rigid corners, edges, or protuberances capable of ~~putting~~ *cutting* or piercing, including, but not limited to, tattooing needles and needle bars, piercing needles, or razors.

~~(w)~~

(x) “Sterilization” means the complete destruction of all microbial life forms, including spores.

~~(x)~~

(y) “Tattooing” means the insertion of pigment ~~under the surface of the skin of a human being, by pricking in human skin tissue by piercing with a needle or otherwise, to produce an indelible mark or figure visible through the skin.~~ *needle bar.*

(z) “Vehicle” means a vehicle that has been fitted or designed to perform body art.

~~(y)~~

1 (aa) “Workstation” means the area within a procedure area
2 where a practitioner performs body art. The workstation includes,
3 but is not limited to, the client chair or table, counter, mayo stand,
4 instrument tray, storage drawer, and practitioner’s chair.

5
6 Article 2. Restrictions on the Performance of Body Art
7

8 119302. (a) Pursuant to Section 653 of the Penal Code, a client
9 shall be at least 18 years of age to be offered or to receive a tattoo
10 or permanent cosmetics application, regardless of parental consent.

11 (b) Pursuant to Section 652 of the Penal Code, persons under
12 18 years of age shall not be offered or receive a body piercing ~~or~~
13 ~~earlobe piercing~~ unless the piercing is performed in the presence
14 of, or as directed by a notarized writing by, his or her parent or
15 guardian.

16 (c) *A client shall be at least 18 years of age to be offered or to*
17 *receive a branding, regardless of parental consent.*

18 (e)
19 (d) ~~The branding, piercing, tattooing, piercing~~ or application of
20 permanent cosmetics to the nipples or genitals of a minor is
21 prohibited. The application of permanent cosmetics to the nipples
22 of a minor is authorized when applied by a registered permanent
23 cosmetic technician with the consent of the minor’s parent or
24 guardian and as directed by a physician.

25 (e) *A body art facility may refuse to perform body piercing on*
26 *a minor, regardless of parental or guardian consent.*

27 119303. (a) Prior to the performance of body art, the client
28 shall read, complete, and sign an informed consent form that shall
29 include, but not be limited to, all of the following information:

- 30 (1) A description of the procedure.
31 (2) A description of what the client should expect following the
32 procedure, including suggested care and any medical complications
33 that may occur as a result of the procedure.
34 (3) A statement regarding the permanent nature of body art.
35 (4) Postprocedure instructions that include all of the following:
36 (A) Information on the care of the procedure site.
37 (B) Restrictions on physical activities such as bathing,
38 recreational water activities, gardening, or contact with animals,
39 and the duration of the restrictions.

1 (C) Signs and symptoms of infection, including, but not limited
2 to, redness, swelling, tenderness of the procedure site, red streaks
3 going from the procedure site towards the heart, elevated body
4 temperature, or purulent drainage from the procedure site.

5 (D) Signs and symptoms that indicate the need to seek medical
6 care.

7 (b) Prior to the performance of body art, the client shall receive,
8 complete, and sign a questionnaire that includes all of the following
9 information:

10 (1) Whether the client may be pregnant.

11 (2) Whether the client has a history of herpes infection at the
12 proposed procedure site, diabetes, allergic reactions to latex or
13 antibiotics, hemophilia or any other bleeding disorder, or cardiac
14 valve disease.

15 (3) Whether the client has a history of medication use or is
16 currently using medication, including being prescribed antibiotics
17 prior to dental or surgical procedures.

18 (4) Any other risk factors for bloodborne pathogen exposure.

19 (c) *The questionnaire and all responses shall be considered*
20 *confidential information. The body art facility shall maintain the*
21 *privacy of the information and shall not sell, share, or transfer the*
22 *information. A body art facility shall comply with all state and*
23 *federal laws with respect to the protection of a client's personally*
24 *identifiable information, including, but not limited to, medical*
25 *information, and shall be subject to existing penalties for violation*
26 *of applicable laws. The body art facility shall shred the*
27 *questionnaire within one year of performing the body art procedure*
28 *on the client.*

29 119304. The piercing of the ear that does not constitute body
30 art shall be subject to the following requirements:

31 (a) A-site facility at which ear piercing is conducted shall be
32 safe and sanitary and not constitute a threat to public health and
33 safety, as determined by the local enforcement agency.

34 (b) A-site facility at which ear piercing is conducted shall be
35 registered with the local enforcement agency in whose jurisdiction
36 the site is located. *The registration documentation shall disclose*
37 *whether or not the facility pierces only the earlobe or pierces other*
38 *parts of the ear. If the facility pierces other parts of the ear,*
39 *practitioners shall receive additional training regarding the*
40 *piercing of ear cartilage.*

1 (c) The local enforcement agency may charge a fee for
2 registration required by this section. The fee shall be set in an
3 amount sufficient to cover the actual costs of administering and
4 enforcing the provisions of this section. The local enforcement
5 agency may not set a different fee based on which part of the ear
6 is pierced.

7 (e)

8 (d) A person performing ear piercing shall meet the following
9 requirements before providing services to the public:

10 (1) Be 18 years of age or older.

11 (2) Receive training on how to use the ear piercing device.

12 (3) Receive a minimum of one hour of training on types of
13 bloodborne pathogens and other communicable diseases, the modes
14 of transmission, and methods to control exposure.

15 (4) Receive training on proper hand hygiene and the use of
16 single-use equipment, including, but not limited to, gloves, towels,
17 and disinfectant wipes.

18 (d)

19 (e) The part of the mechanical ear stud device that contacts the
20 skin shall be ~~single use or shall be sterilized after each client~~
21 *single-use, presterilized stud and clasp only.*

22 (e)

23 (f) A single-use, presterilized clasp and stud used in ear piercing
24 pursuant to this section shall meet all applicable jewelry
25 requirements in subdivisions (a) and (b) of Section 119310.

26 119305. This chapter does not restrict the activities of any
27 physician and surgeon licensed under Chapter 5 (commencing
28 with Section 2000) of Division 2 of the Business and Professions
29 Code. Nothing in this chapter authorizes a practitioner to perform
30 activities that are restricted under Chapter 5 (commencing with
31 Section 2000) of Division 2 of the Business and Professions Code.

32 Article 3. Practitioner Registration

33
34 119306. (a) Commencing January 1, 2010, a person shall not
35 perform body art if he or she is not registered with the local
36 enforcement agency.

37
38 (b) As a condition of registration, the applicant shall provide
39 all of the following:

1 (1) Evidence of current hepatitis B vaccination, including
2 applicable boosters, unless the practitioner can demonstrate
3 hepatitis B immunity or has complied with current federal OSHA
4 hepatitis B vaccination declination requirements.

5 (2) Evidence of completion of OSHA Bloodborne Pathogen
6 Training consistent with Section 119307 and pursuant to paragraph
7 (2) of subdivision (g) of Section 5193 of Title 8 of the California
8 Code of Regulations or its successor.

9 (3) Evidence of completion of a four-hour first aid and CPR
10 training course approved by the local enforcement agency.

11 (4) Proof that he or she is 18 years of age or older.

12 (5) Self-certification of, knowledge of, and commitment to meet
13 state law and relevant local regulations pertaining to body art
14 safety.

15 (6) His or her business address and the address at which he or
16 she will perform any activity regulated by this chapter.

17 (7) Payment of a registration fee directly to the local
18 enforcement agency. The local enforcement agency shall set the
19 fee at an amount sufficient to cover the actual costs of
20 administering the program.

21 (c) A practitioner shall display, in a place readily visible to the
22 public at the body art facility where the practitioner is performing
23 body art, the certificate confirming registration with the local
24 enforcement agency in the jurisdiction in which that practice is
25 conducted.

26 (d) A valid and current registration issued by a local enforcement
27 agency shall be valid in any other jurisdiction for no more than
28 five consecutive days, or 15 days total, in any one calendar year.

29 119307. (a) Prior to registering with the local enforcement
30 agency, a practitioner shall complete a Bloodborne Pathogens
31 Exposure Control Training program that is specific to his or her
32 practice.

33 (b) An owner shall provide Bloodborne Pathogens Exposure
34 Control Training pursuant to the requirements of paragraph (2) of
35 subdivision (g) of Section 5193 of Title 8 of the California Code
36 of Regulations, or its successor, for all employees, contractors,
37 and volunteers who perform duties within the cleaning and
38 sterilization area or procedure area.

39 (c) The Bloodborne Pathogens Exposure Control Training shall
40 meet all of the following criteria:

1 (1) Training shall be conducted by a person or persons who are
2 knowledgeable in exposure control and infection prevention in the
3 body art setting and who have a minimum of five years of
4 experience in performing body art and have successfully completed
5 a Bloodborne Pathogens Exposure Control Training course.

6 (2) Training and training materials shall be specific to
7 performing body art.

8 (3) Training and training materials shall be in the primary
9 language of the trainee.

10 (4) Training and training materials shall be provided at the grade
11 10 vocabulary level or lower.

12 (5) Training shall consist of not less than eight hours of
13 classroom training that includes all of the following:

14 (A) A copy and explanation of the California Occupational
15 Safety and Health Administration Bloodborne Pathogens Standard
16 contained in Section 5193 of Title 8 of the California Code of
17 Regulations, or its successor.

18 (B) A copy and explanation of Subchapter 11 of Title 17 of the
19 California Code of Regulations.

20 (C) A copy and explanation of applicable county or city
21 ordinances that pertain to bloodborne pathogen transmission control
22 in body art.

23 (D) Discussion of transmission, control, and symptoms of the
24 diseases caused by bloodborne pathogens.

25 (E) Discussion of tasks involved in performing body art and
26 how those tasks may lead to exposure to bloodborne pathogens
27 for the client or practitioner.

28 (F) Discussion of the types and uses of personal protective
29 equipment, such as disposable gloves, including an explanation
30 of the limitations of the equipment.

31 (G) Discussion of the types of tasks, proper task technique, and
32 order of tasks before and after putting on and removing personal
33 protective equipment, to avoid contamination.

34 (H) Discussion of the importance of hand hygiene and a
35 demonstration of proper hand hygiene techniques.

36 (I) Discussion of choice, use, and storage of disinfectants and
37 antiseptics.

38 (J) Information on the signage required for biohazard materials
39 and the importance of properly labeling chemicals and supplies.

1 (K) Information on hepatitis B vaccine, including safety and
2 accessibility.

3 (L) Discussion of what constitutes a bloodborne pathogen
4 exposure incident, including all of the following:

5 (i) Examples of bloodborne pathogen exposure, how the
6 exposure occurred, and what actions to take to prevent or minimize
7 future exposures.

8 (ii) Risk of infection following a bloodborne pathogen exposure
9 incident.

10 (iii) Procedures to be followed after an exposure incident,
11 including medical followup.

12 (M) Opportunities for interactive questions and answers with
13 the instructor.

14 (d) Each person required to complete a Bloodborne Pathogens
15 Exposure Control Training program pursuant to this section shall
16 annually complete a minimum of two hours of Bloodborne
17 Pathogens Exposure Control Training update presented by a local
18 enforcement agency approved trainer.

19 (e) Records of training required pursuant to this section shall
20 be maintained for three years and shall be available for inspection
21 upon request of the enforcement officer.

22 119308. (a) Before performing body art, the practitioner shall
23 do all of the following:

24 (1) Wash his or her hands as follows:

25 (A) Rinse his or her hands under running water.

26 (B) Lather his or her hands with soap and use friction to clean
27 all surfaces of the hands and fingers for at least 15 seconds and
28 re-rinse his or her hands under running water to completely remove
29 soap.

30 (C) Dry his or her hands thoroughly with a single-use towel.

31 (D) Turn off the tap by using a towel or by elbow- or
32 foot-operated taps.

33 (2) Put on a clean apron, bib, or lap pad over clean, dry clothing.

34 (3) Put on personal protective equipment that is appropriate for
35 the task.

36 (4) Don clean, previously unused, disposable examination gloves
37 on both hands just prior to the procedure. Gloves shall be worn
38 throughout the procedure. If gloves come into contact with any
39 object or surface other than the client's prepared skin or material
40 to be used for the procedure, or if a glove is torn or punctured,

1 both gloves shall be removed, hand hygiene performed, and new,
2 clean, previously unused, disposable examination gloves shall be
3 donned. If gloves are removed for any reason during a procedure,
4 hand hygiene shall be performed prior to donning new, clean,
5 previously unused, disposable examination gloves.

6 (5) If the skin at the procedure site is to be shaved, the skin shall
7 be first washed with soap and water. A single-use, disposable razor
8 shall be used to shave the procedure site and then discarded into
9 a sharps container.

10 (6) Immediately prior to performing the body art, the client's
11 skin shall be prepared with an antiseptic solution, antimicrobial,
12 or microbicide, according to manufacturer's instructions, or with
13 70 percent isopropyl alcohol applied with a folded paper towel,
14 cotton ball, gauze, or swab using a circular motion, gradually
15 increasing the size of the circle until the entire procedure site is
16 cleaned. The item used for application shall be discarded after use.

17 (b) At the completion of the procedure, the practitioner shall do
18 all of the following:

19 (1) Answer questions regarding the procedure site.

20 (2) Provide postprocedure instructions.

21 (3) Place all used or discarded sharps waste in a sharps waste
22 container.

23 (4) Wash and disinfect reusable instruments as provided in
24 subdivisions (d) and (e) of Section 119309.

25 (5) Package and sterilize reusable instruments that may have
26 come in contact with nonintact skin or mucosal surfaces.

27 (6) Decontaminate the workstation and procedure area.

28 119309. (a) The practitioner shall maintain a clean and sanitary
29 environment.

30 (b) All solid surfaces and objects in the procedure area and the
31 cleaning and sterilization area that have come into contact with
32 the client or the materials used in performing the body art,
33 including, but not limited to, chairs, armrests, tables, countertops,
34 and trays, shall be immediately decontaminated after each use and
35 then disinfected by application of either of the following:

36 (1) A disinfectant, used according to manufacturer's directions.

37 (2) A proprietary hypochlorite product, registered with the
38 federal Environmental Protection Agency and used according to
39 the manufacturer's directions, or a 1:100 dilution of hypochlorite,
40 prepared by mixing one part household bleach with 100 parts

1 water, mixed within the past 24 hours. If the dilution of
2 hypochlorite is used, the solution shall be left on the surface for
3 10 to 20 minutes before rinsing with water.

4 (c) The surfaces and objects in the procedure area shall be
5 disinfected again before use if the area has been used for any
6 activity following its previous disinfection.

7 (d) The practitioner shall wear disposable gloves on both hands
8 when touching, cleaning, or handling a surface, object, instrument,
9 or jewelry that is soiled or that is potentially soiled with human
10 blood.

11 (e) Any instrument or other reusable item that comes into contact
12 with nonintact skin or mucosal surfaces shall either be single use
13 or be washed, disinfected, packaged, and sterilized after each
14 procedure. Sterilization shall be accomplished pursuant to the
15 procedures established in Section 119315 by steam autoclave.

16 (f) An instrument or reusable item that does not come into
17 contact with nonintact skin or mucosal surfaces shall be washed
18 with a solution of soap and water, using a brush that is small
19 enough to clean the interior surfaces, and decontaminated after
20 each procedure.

21 (g) A reusable item that cannot be immediately washed,
22 disinfected, and sterilized following completion of the body art
23 procedure shall be placed in a basin of water with or without
24 detergent.

25 (h) Sterile instrument packs shall be evaluated before use, and
26 if the integrity of a pack is compromised in any way, including,
27 but not limited to, being torn, punctured, wet, or having evidence
28 of potential moisture contamination, the instrument pack shall be
29 discarded or reprocessed before use.

30 (i) No food, drink, tobacco product, or personal effects are
31 permitted in the procedure area. The practitioner shall not eat,
32 drink, or smoke while performing a procedure. If a client requests
33 to eat, drink, or smoke, the procedure shall be stopped and the
34 procedure site shall be protected from possible contamination while
35 the client leaves the procedure area to eat, drink, or smoke.

36 (j) *Branding shall not be done with another client in the*
37 *procedure area. During the procedure, the practitioner and the*
38 *client shall wear appropriate protective face filter masks.*

39 119310. (a) Jewelry placed in newly pierced skin shall be
40 sterilized prior to piercing as specified in Section 119315 or shall

1 be purchased presterilized. Sterile jewelry packs shall be evaluated
2 before use and, if the integrity of a pack is compromised, including,
3 but not limited to, being torn, wet, or punctured, the pack shall be
4 discarded or reprocessed before use.

5 (b) Only jewelry made of ASTM F138, ISO 5832-1, and AISI
6 316L or AISI 316LVM implant grade stainless steel, solid 14-karat
7 through 18-karat yellow or white gold, niobium, ASTM F 136
8 6A4V titanium, platinum, or other materials found to be equally
9 biocompatible shall be placed in newly pierced skin.

10 (c) Ear piercing equipment with a disposable, single-use,
11 presterilized clasp and stud may be used only for piercing the ear
12 pursuant to Section 119304.

13 (d) If measuring the body piercing site is necessary, clean
14 calipers shall be used and the skin marked using clean toothpicks
15 and ink.

16 119311. (a) A product applied to the skin prior to tattooing or
17 application of permanent cosmetics, including, but not limited to,
18 stencils and marking and transfer agents, including pens, shall be
19 single use and discarded into a waste container at the end of the
20 procedure unless the product can be disinfected for reuse.

21 (b) Only commercially manufactured inks, dyes, and pigments
22 shall be used.

23 (c) Inks, pigments, soaps, and other products in multiple-use
24 containers shall be dispensed in a manner to prevent contamination
25 of the storage container and its remaining contents through the use
26 of a single-use receptacle.

27 (d) Inks and pigments shall be placed into a clean, single-use
28 receptacle. The inks and pigments remaining in the receptacle shall
29 be discarded immediately upon completion of the procedure.

30 (e) If a tray is used for inks or pigments, it shall be
31 decontaminated after each procedure.

32 (f) Only single-use needles and needle bars shall be used in
33 tattooing and the application of permanent cosmetics. Needles and
34 needle bars that are purchased in a nonsterilized state, shall be
35 sterilized, pursuant to the process required by Section 119315.

36 (g) Needles, needle bars, grommets, and razors shall be
37 discarded into a sharps waste container immediately upon
38 completion of the procedure.

39 (h) Any part of a tattooing machine that may be touched by the
40 practitioner during the procedure shall be covered with a disposable

1 plastic sheath that is discarded upon completion of the procedure,
2 and the machine shall be decontaminated upon completion of the
3 procedure.

4 (i) A machine used to insert pigments shall be designed with
5 removable tip parts between the tip and motor housing, and in a
6 manner that will prevent backflow into enclosed parts of the motor
7 housing.

8 (j) A hand tool used to insert pigment shall be disposed of in a
9 sharps container, with the sharps intact, unless the needle can be
10 mechanically ejected from the hand tool.

11 12 Article 4. Permanent Body Art Facilities

13
14 119312. (a) A body art facility shall not conduct business
15 without a valid health permit.

16 (b) The application for a health permit for a body art facility
17 shall include all of the following:

18 (1) A copy of the facility's infection prevention control plan,
19 as required by Section 119313.

20 (2) A fee, as set by the local enforcement agency at an amount
21 sufficient to cover the actual costs of administration of the program.
22 Fees established by this section shall be used exclusively in support
23 of activities pursuant to this chapter.

24 (c) The local enforcement agency shall issue a health permit
25 after an investigation has determined that the proposed body art
26 facility and its method of operation meets the specifications of the
27 approved plans or conforms to the requirements of this article.

28 (d) A health permit is valid only for the location of the facility
29 and the time period indicated on the permit and may not be
30 transferred to another owner or facility.

31 (e) The health permit shall be posted in a conspicuous place at
32 the body art facility. Certificates of registration for all practitioners
33 performing body art in that facility shall also be prominently
34 displayed either near the health permit or at the individual
35 practitioner's procedure area if each practitioner has a designated
36 area.

37 (f) A person proposing to construct a practice site or mobile
38 practice site, other than a temporary body art event booth, shall
39 submit plans to the Plan Review Unit of the local enforcement
40 agency, and pay a fee set by the local enforcement agency at an

1 amount sufficient to cover the actual costs of the plan review
2 process. The plans shall be approved in advance of the issuance
3 of any building, plumbing, or electrical permit. All required
4 corrections must be made and the body art facility approved to
5 open before any body art can be performed in the facility.

6 119313. (a) A body art facility shall maintain and follow a
7 written Infection Prevention and Control Plan, provided by the
8 owner or established by the practitioners, specifying the procedures
9 to achieve compliance with each applicable requirement of this
10 chapter.

11 (b) The Infection Prevention and Control Plan shall include all
12 of the following:

13 (1) Procedures for cleaning and disinfecting environmental
14 surfaces.

15 (2) Procedures for cleaning, packaging, sterilizing, and storing
16 reusable instruments.

17 (3) Procedures for protecting clean instruments and sterile
18 instrument packs from exposure to dust and moisture during
19 storage.

20 (4) A set up and tear down procedure for any form of body art
21 performed at the body art facility.

22 (5) Techniques to prevent the contamination of instruments or
23 the procedure site during the performance of body art.

24 (6) Procedures for safe handling and disposal of sharps waste.

25 (c) The Infection Prevention and Control Plan shall be revised
26 when any changes are made in infection prevention practices,
27 procedures, or tasks.

28 (d) Training on the facility's Infection Prevention and Control
29 Plan shall take place when tasks where occupational exposure may
30 occur are initially assigned, any time there are changes in the
31 procedures or tasks, and when new technology is adopted for use
32 in the facility, but not less than once each year.

33 (e) Records of training required pursuant to this section shall
34 be maintained for three years and shall be available for inspection
35 upon request of the enforcement officer.

36 119314. (a) With the exception of a temporary demonstration
37 booth and a mobile site, as specified in Sections 119317 and
38 119318, a body art facility shall comply with all of the following:

39 (1) Have floors, walls, and ceilings that are smooth, free of open
40 holes, and washable.

1 (2) Be free of insect and rodent infestation.

2 (3) Be separate from any residential areas used for sleeping,
3 bathing, or meal preparation. A body art facility associated with
4 a residential dwelling shall have a separate entrance and toilet
5 facility, and shall not have a door allowing direct access between
6 the body art facility and the residential dwelling.

7 (b) Procedure areas in a body art facility shall meet all of the
8 following standards:

9 (1) Be equipped with a light source of least 150 foot-candles of
10 light at the procedure area.

11 (2) Be separated, by a wall or ceiling-to-floor partition, from
12 nail and hair activities.

13 (3) Be equipped with a sink supplied with hot and cold running
14 water, containerized liquid soap, and single-use paper towels that
15 are dispensed from a wall-mounted, touchless dispenser that is
16 accessible to the practitioner.

17 (c) Cleaning and sanitation areas within a body art facility shall
18 meet all of the following requirements:

19 (1) Be separated from procedure areas by a space of at least five
20 feet.

21 (2) Be equipped with a sink, hot and cold running water, liquid
22 soap in a wall-mounted dispenser, and single-use paper towels
23 dispensed from a wall-mounted, touchless dispenser that is readily
24 accessible to the practitioner.

25 (d) Each procedure area and cleaning and sterilization area shall
26 have waste containers lined with plastic bags specifically
27 manufactured for use in waste containers and large enough to fold
28 over the top rim of the waste container by a minimum of one inch.

29 (e) Each procedure area and cleaning and sterilization area shall
30 have a container for the disposal of sharps waste that meets the
31 following requirements:

32 (1) The sharps waste container shall be portable, if portability
33 is necessary to ensure that the sharps waste container is within
34 arm's reach of the practitioner.

35 (2) The sharps waste container shall be labeled with the words
36 "sharps waste" or with the international biohazard symbol and the
37 word "BIOHAZARD."

38 (3) All sharps waste produced during the process of tattooing,
39 body piercing, or the application of permanent cosmetics shall be
40 disposed by either of the following methods:

1 (A) Removal and disposal by a company, or removal and
2 transportation through a mail-back system approved by the local
3 enforcement agency, or by other means in accordance with the
4 Medical Waste Management Act (Part 14 (commencing with
5 Section 117600)).

6 (B) As solid waste after being disinfected by a method approved
7 by either the department pursuant to paragraph (3) of subdivision
8 (a) of Section 118215 or by the local enforcement agency as a
9 condition of registration.

10 (f) No animals shall be allowed in the procedure area or the
11 cleaning and sterilization area.

12 119315. A body art facility shall conform to the following
13 sterilization procedures:

14 (a) Clean instruments to be sterilized shall first be sealed in
15 peel-packs that contain either a sterilizer indicator or internal
16 temperature indicator. The outside of the pack shall be labeled
17 with the name of the instrument, the date sterilized, and the initials
18 of the person operating the sterilizing equipment.

19 (b) Sterilizers shall be loaded, operated, cleaned, and maintained
20 according to manufacturer's directions, and shall meet all of the
21 following standards:

22 (1) Only equipment manufactured for the sterilization of medical
23 instruments shall be used.

24 (2) Sterilization equipment shall be tested using a commercial
25 biological indicator monitoring system after the initial installation,
26 after any major repair, and at least once per week. The expiration
27 date of the monitor shall be checked prior to each use.

28 (3) Each sterilization load shall be monitored with mechanical
29 indicators for time, temperature, pressure, and chemical integrators.
30 Each individual sterilization pack shall have a chemical indicator.

31 (4) Biological indicator monitoring test results shall be recorded
32 in a log that shall be kept on site for two years after the date of the
33 results.

34 (5) A written log of each sterilization cycle shall be retained on
35 site for two years and shall include all of the following information:

36 (A) The date of the load.

37 (B) A list of the contents of the load.

38 (C) The exposure time and temperature.

39 (D) The results of the biological indicator monitoring test.

1 (E) For cycles where the results of the biological indicator
2 monitoring test are positive, how the items were cleaned, and proof
3 of a negative test before reuse.

4 (c) Clean instruments and sterilized instrument packs shall be
5 placed in clean, dry, labeled containers, or stored in a labeled
6 cabinet that is protected from dust and moisture.

7 (d) Sterilized instruments shall be stored in the intact peel-packs
8 until time of use.

9 (e) Sterile instrument packs shall be evaluated at the time of
10 storage and before use. If the integrity of a pack is compromised,
11 including, but not limited to, cases where the pack is torn,
12 punctured, wet, or displaying any evidence of moisture
13 contamination, the pack shall be discarded or reprocessed before
14 use.

15 (f) A body art facility that does not afford access to a cleaning
16 and sterilization area that meets the standards of subdivision (c)
17 of Section 119314 or that does not have sterilization equipment
18 shall use only purchased disposable, single-use, presterilized
19 instruments. In place of the requirements for maintaining
20 sterilization records, the following records shall be kept and
21 maintained for one year following the use of the instruments at
22 the site of practice for the purpose of verifying the use of
23 disposable, single-use, presterilized instruments:

24 (1) A record of purchase and use of all single-use instruments.

25 (2) A log of all procedures, including the names of the
26 practitioner and client and the date of the procedure.

27 119316. (a) If a practitioner performs body art in a vehicle, a
28 health permit is required if the practitioner will practice in the
29 vehicle in the jurisdiction for more than seven days in a 90-day
30 period. To obtain a health permit, the vehicle shall meet the
31 requirements set forth in subdivisions (b) to (g), inclusive, of
32 Section 119317.

33 (b) If the vehicle will be operating in the jurisdiction for less
34 than seven days in a consecutive 90-day period, the vehicle shall
35 be treated as a temporary booth and will be subject to Section
36 119317.

Article 5. Temporary Body Art Facilities

119317. A practitioner may, in the local jurisdiction of registration, practice in a temporary demonstration booth for no more than seven days in a 90-day period. The demonstration booth shall meet all of the following requirements:

(a) Be located within a building that has hand washing facilities with hot and cold running water, soap, and single-use paper towels.

(b) Constructed with a partition of at least three feet in height separating the procedure area from the public.

(c) Be free of insect or rodent infestation.

(d) Used exclusively for performing body art.

(e) Equipped with at least 150 foot-candles of light available at the level where the practitioner is performing body art.

(f) Equipped with hand washing equipment that, at a minimum, consists of containerized liquid soap, single-use paper towels, a five-gallon or larger container of potable water accessible via spigot, and a wastewater collection and holding tank of corresponding size. Potable water shall be refilled and the holding tank evacuated at least every four procedures or every four hours, whichever occurs first.

(g) Not allow animals within the confines of the demonstration booth.

119318. (a) The sponsor of a temporary body art event shall apply for and obtain a sponsor's permit from the local enforcement agency in the jurisdiction where the event will be held.

(b) The sponsor of a temporary body art event shall be responsible for ensuring the availability of support facilities and supplies for practitioners and vendors, including, but not limited to:

(1) Access to a potable water supply.

(2) Restrooms that have flush toilets supplied with toilet paper, and hand wash sinks supplied with hot and cold potable running water, soap, and single-use paper towels.

(3) Sharps waste containers for each demonstration booth.

(4) The use of a licensed medical waste disposal company for removal of all sharps waste containers used during the body art event.

(5) Frequent trash pickup from demonstration booths.

(6) An eye wash station.

- 1 (7) A cleaning and sterilization area.
- 2 (8) Adequate backup supplies that can be purchased by
- 3 practitioners, including, but not limited to:
- 4 (A) Presterilized tattoo needles.
- 5 (B) Presterilized needle tubes.
- 6 (C) Presterilized piercing instruments, including, but not limited
- 7 to, needles, receiving tubes, corks, marking tools, and forceps.
- 8 (D) Plastic bags, barrier film, clip cord covers, and plastic wrap.
- 9 (E) Ink cups.
- 10 (F) Nitrile and latex gloves.
- 11 (G) Single-use tubes of water-based and petroleum-based
- 12 lubricants.
- 13 (H) Absorbent dressing materials.
- 14 (c) The name, telephone number, and directions to an emergency
- 15 room near the temporary body art event shall be posted in a
- 16 conspicuous location.
- 17 (d) Each practitioner working in a booth at a temporary body
- 18 art event shall display his or her certificate of registration, or keep
- 19 the certificate in a folder that is available for inspection upon
- 20 request of the enforcement officer or a client.

21

22 Article 6. Enforcement

23

- 24 119319. (a) An enforcement officer may enter a body art
- 25 facility during the facility's hours of operation and other reasonable
- 26 times to do any of the following:
- 27 (1) Conduct inspections, issue citations, and secure samples,
- 28 photographs, or other evidence from a body art facility, or any
- 29 facility suspected of being a body art facility.
- 30 (2) Check the Infection Prevention and Control Plan, required
- 31 pursuant to Section 119313, to determine if persons working in
- 32 the facility are following the plan, and to determine if the plan is
- 33 in compliance with this chapter.
- 34 (3) Secure as evidence any documents, or copies of documents,
- 35 including the Infection Prevention and Control Plan, or any record,
- 36 file, paper, process, invoice, or receipt for the purpose of
- 37 determining compliance with this chapter.
- 38 (b) A written report shall be made and a copy shall be supplied
- 39 or mailed to the owner or practitioner at the completion of an
- 40 inspection or investigation.

1 (c) Based upon inspection findings or other evidence, an
2 enforcement officer may impound instruments that are found to
3 be unsafe to use. Within 30 days, the local enforcement agency
4 that has impounded the equipment shall commence proceedings
5 to release the instrument or to seek administrative or legal remedy
6 for its disposal.

7 (d) It is a violation of this chapter for the owner or any person
8 working in a body art facility, to do any of the following:

9 (1) Conceal any records or evidence, or to withhold evidence.

10 (2) Interfere with the performance of the duties of an
11 enforcement officer.

12 (3) Make a false statement, representation, certification, record,
13 report, or otherwise falsify information required to be submitted
14 or maintained pursuant to this chapter.

15 119320. (a) A certificate of registration or a health permit may
16 be suspended by a local enforcement agency for a violation of this
17 chapter.

18 (b) A body art facility or practitioner whose certificate of
19 registration or health permit has been suspended shall cease doing
20 business until the certificate or permit has been reinstated.
21 Suspension of the registration of one practitioner in a body art
22 facility does not affect the status of other practitioners in the facility
23 unless the violation or violations are for conditions or equipment
24 that affects the ability of all the practitioners in the facility to
25 comply with the provisions of this chapter.

26 (c) Any body art facility for which the health permit has been
27 revoked shall close and remain closed until a new health permit
28 has been issued.

29 (d) Whenever an enforcement officer finds that a practitioner
30 or body art facility is not in compliance with the requirements of
31 this chapter, a written notice to comply shall be issued to the
32 registrant or permitholder. If the registrant or permitholder fails
33 to comply, the enforcement officer shall issue a notice of violation
34 to the registrant or permitholder setting forth the acts or omissions
35 with which the registrant or permitholder is charged, and informing
36 him or her of a right to a hearing, if requested, to show cause why
37 the registration or permit should not be suspended or revoked.

38 (e) (1) A written request for a hearing shall be made by the
39 registrant or permitholder within 15 calendar days after receipt of
40 the notice.

1 (2) The hearing shall be held within 15 calendar days of the
2 receipt of a request for a hearing. Upon written request of the
3 registrant or permitholder, the hearing officer may postpone a
4 hearing date, if circumstances warrant the action.

5 (f) A failure to request a hearing within 15 calendar days after
6 receipt of the notice shall be deemed a waiver of the right to a
7 hearing.

8 (g) The hearing officer shall issue a written notice of decision
9 to the registrant or permitholder within five working days following
10 the hearing. In the event of a suspension or revocation, the notice
11 shall specify the acts or omissions with which the registrant or
12 permitholder is charged, and shall state the terms of the suspension
13 or that the registration or health permit has been revoked.

14 (h) A certificate of registration or health permit may be
15 reinstated or a new certificate of registration or health permit issued
16 if the local enforcement agency determines that the conditions that
17 prompted the suspension or revocation no longer exist.

18 119321. If an imminent health hazard is found, the enforcement
19 officer may suspend a registration temporarily and order the
20 practitioner to cease operation if the hazard is not corrected. If the
21 hazard affects the entire body art facility, then the entire facility
22 may be closed immediately. Whenever a registration or health
23 permit is suspended as the result of an imminent health hazard,
24 the enforcement officer shall issue to the registrant or permitholder
25 a notice setting forth the acts or omissions being charged,
26 specifying the pertinent code section, and informing the registrant
27 or permitholder of the right to a hearing.

28 119322. The local enforcement agency may, after providing
29 opportunity for a hearing, modify, suspend, or revoke a certificate
30 of registration or a health permit for serious or repeated violations
31 of any requirement of this chapter or for interference in the
32 performance of the duty of the enforcement officer.

33 119323. Performing body art without being registered,
34 operating a body art facility without a health permit, or operating
35 a temporary body art event without a permit shall be a
36 misdemeanor. The local enforcement agency may also assess an
37 administrative penalty in an amount not less than twenty-five
38 dollars (\$25) and not more than one thousand dollars (\$1,000) for
39 violation of a provision of this chapter. All fines are to be retained

1 by the local enforcement agency for enforcement of the provisions
2 of this chapter.

3 119324. A city, county, or city and county may adopt
4 regulations or ordinances that do not conflict with, or are more
5 stringent than, the provisions of this chapter as they relate to body
6 art.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution for certain
9 costs that may be incurred under this act because a local agency
10 or school district has the authority to levy service charges, fees,
11 or assessments sufficient to pay for the program or level of service
12 mandated by this act, within the meaning of Section 17556 of the
13 Government Code.

14 No reimbursement is required by this act pursuant to Section 6
15 of Article XIII B of the California Constitution for those costs that
16 may be incurred by a local agency or school district because this
17 act creates a new crime or infraction, eliminates a crime or
18 infraction, or changes the penalty for a crime or infraction, within
19 the meaning of Section 17556 of the Government Code, or changes
20 the definition of a crime within the meaning of Section 6 of Article
21 XIII B of the California Constitution.